

AMITY, COMMERCE, AND NAVIGATION; EXTRADITION

Treaty signed at Caracas August 27, 1860

Senate advice and consent to ratification February 12, 1861

Ratified by the President of the United States February 25, 1861

Ratified by Venezuela June 19, 1861

Ratifications exchanged at Caracas August 9, 1861

Entered into force August 9, 1861

Proclaimed by the President of the United States September 25, 1861

*Terminated October 22, 1870*¹

12 Stat. 1143; Treaty Series 369²

The United States of America and the Republic of Venezuela, equally animated with the desire of maintaining the cordial relations, and of tightening, if possible, the bonds of friendship between the two countries, as well as to augment by all the means at their disposal, the commercial intercourse of their respective citizens, have mutually resolved to conclude a general convention of amity, commerce and navigation, and for the surrender of fugitive criminals. For this purpose, they have appointed as their Plenipotentiaries, to wit: the President of the United States, Edward A. Turpin, Minister Resident near the Government of Venezuela; and the President of Venezuela, Pedro de Las Casas, Secretary of State in the Department of Foreign Relations, who, after a communication of their respective full powers, have agreed to the following articles:

ARTICLE I

It is the intention of the high contracting parties that there shall continue to be a firm, inviolable, and universal peace, and a true and sincere friendship between the Republics of the United States of America and Venezuela, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

If unfortunately the two nations should become involved in war, one with the other, the term of six months after the declaration thereof, shall be allowed to the merchants, and other citizens and inhabitants respectively, on

¹ Pursuant to notice of termination given by Venezuela Oct. 22, 1869.

² For a detailed study of this treaty, see 8 Miller 533.

each side, during which time they shall be at liberty to withdraw themselves, with their effects, and movables; which, they shall have the right to carry away, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports shall be valid for a term necessary for their return, and shall be given to them for their vessels, and the effects which they may wish to carry with them or send away, and such passports shall be a safe-conduct against the insults and captures which privateers may attempt against their persons and effects; and the money, debts, shares in the public funds, or in banks, or any other property personal or real, belonging to the citizens of the one party in the territories of the other, shall not be confiscated or sequestered.

ARTICLE II

The citizens of each of the high contracting parties, residing or established in the territory of the other, shall be exempt from all compulsory military service, by sea or by land; and from all forced loans, or military exactions or requisitions; nor shall they be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens.

ARTICLE III

The citizens of the contracting parties shall be permitted to enter, sojourn, settle and reside in all parts of said territories; and such as may wish to engage in business, shall have the right to hire and occupy warehouses, provided they submit to the laws, as well general, as special, relative to the rights of traveling, residing or trading. While they conform to the laws and regulations in force, they shall be at liberty to manage, themselves, their own business, subject to the jurisdiction of either party, as well in respect to the consignment and sale of their goods by wholesale or retail, as with respect to the loading, unloading and sending off their ships. They may also employ such agents or brokers as they may deem proper, and shall in all these cases, be treated as the citizens of the country wherein they reside; it being nevertheless, distinctly understood, that they shall be subject to such laws and regulations, also, in respect to wholesale or retail.

They shall have free access to the tribunals of justice, in cases to which they may be a party, on the same terms which are granted by the laws and usage of the country, to native citizens; for which purpose they may employ in defense of their interests and rights, such advocates, attorneys and other agents, as they may think proper.

ARTICLE IV

The citizens of each of the high contracting parties, residing in the other, shall enjoy the most perfect liberty of conscience. They shall be subjected to no inconveniences whatever on account of their religious belief. Nor shall they

in any manner be annoyed, or disturbed in the exercise of their religious worship in private houses, or in the chapels and places which they may select for that purpose, provided that in so doing, they observe the decorum due to the laws, usages and customs of the country. It is likewise agreed that the citizens of the one country, dying in the territory of the other, may be interred either in the ordinary cemeteries, or in such others as may be selected for that purpose by their own Government, or by their personal friends or representatives, with the consent of the local authorities. All such cemeteries, and funeral processions going to, or returning from them, shall be protected from violation or disturbance.

ARTICLE V

The citizens of each of the high contracting parties, within the jurisdiction of the other, shall have power to dispose of their personal property by sale, donation, testament or otherwise; and their personal representatives, being citizens of the other contracting party, shall succeed to their personal property, whether by testament or ab intestato. They may take possession thereof, either by themselves, or by others acting for them, at their pleasure, and dispose of the same, paying such duty only, as the citizens of the country wherein the said personal property is situated, shall be subject to pay, in like cases.

In the absence of a personal representative, the same care shall be taken of the property, as by law would be taken of the property of a native in a similar case, whilst the lawful owner may take measures for securing it. If a question should arise among claimants, as to the rightful ownership of the property, the same shall be decided by the judicial tribunals of the country in which it is situated.

When on the decease of any person holding real estate within the territory of one party, such real estate would by the law of the land descend on a citizen of the other, were he not disqualified by alienage, the longest term which the laws of the country in which it is situated will permit, shall be accorded to him to dispose of the same; nor shall he be subjected, in doing so, to higher or other dues, than if he were a citizen of the country wherein such real estate is situated.

ARTICLE VI

The high contracting parties hereby agree that whatever kind of produce, manufactures, or merchandize of any foreign country, can be, from time to time, lawfully imported into the United States in their own vessels, may also be imported in the vessels of Venezuela, and no higher or other duties upon the tonnage or cargo of the vessels shall be levied or collected, whether the importation be made in a vessel under the flag of the United States, or a vessel under the flag of Venezuela, and reciprocally, whatever kind of produce, manufactures or merchandize of any foreign country, can be, from time to time, lawfully imported into Venezuela in her own vessels, may also

be imported in vessels of the United States, and no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected, whether the importation be made in a vessel under the flag of Venezuela, or under the flag of the United States.

Whatever can be lawfully exported or reexported by one party in its own vessels to any foreign country, may in like manner, be exported or reexported in the vessels of the other; and the same duties, bounties and drawbacks shall be collected and allowed, whether such exportation or reexportation be made in vessels of the one or the other. Nor shall higher or other charges of any kind be imposed in the ports of one party on vessels of the other, than are or shall be payable in the same ports, by national vessels.

ARTICLE VII

The preceding article is not applicable to the coasting trade of the contracting parties, which is respectively reserved by each, exclusively for its own citizens. But vessels of either country shall be allowed to discharge a part of their cargos at one port, and proceed to any other port or ports in the territories of the other, to discharge the remainder, without paying higher or other port charges or tonnage dues than would be paid by national vessels in such cases, so long as this liberty shall be conceded to any foreign vessels by the laws of both countries.

ARTICLE VIII

For the better understanding of the preceding stipulations, it has been agreed that every vessel belonging exclusively to a citizen or citizens of Venezuela, and whose captain is also a citizen of the same, such vessel having also complied with all the other requisites established by law to acquire such national character, though the construction and crew are or may be foreign, shall be considered for all the objects of this treaty, as a Venezuelan vessel.

ARTICLE IX

No higher or other duty shall be imposed on the importation into the United States, of any article the growth, produce, or manufacture of Venezuela, or of her fisheries; and no higher or other duty shall be imposed on the importation into Venezuela, of any article, the growth, produce or manufacture of the United States, or their fisheries, than are or shall be payable on the like articles the growth, produce, or manufacture of any other foreign country, or its fisheries. No other or higher duties, or charges shall be imposed in the United States on the exportation of any article to Venezuela, nor in Venezuela, on the exportation of any article to the United States, than such as are, or shall be payable on the exportation of the like article, to any other foreign country.

No prohibition shall be imposed on the importation of any article, the growth, produce, or manufacture of the United States or their fisheries, or

of Venezuela, and her fisheries, from or to the ports of the United States, or Venezuela, which shall not equally extend to every other foreign country. If however, either party shall hereafter grant to any other nation, any particular favour in navigation or commerce, it shall immediately become common to the other party, freely, where it shall be freely granted to such other nation, or for the same equivalent, when the grant shall be conditional.

ARTICLE X

Should one of the high contracting parties hereafter impose discriminating duties upon the products of any other nation, the other party shall be at liberty to determine the manner of establishing the origin of its own products intended to enter the country by which the discriminating duties are imposed.

ARTICLE XI

When any vessel of either party shall be wrecked, stranded or otherwise damaged on the coasts, or within the jurisdiction of the other, their respective citizens shall receive, as well for themselves, as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the accident happened; and they shall be liable to pay the same charges, and dues of salvage as the said inhabitants would be liable to pay in like case. If the repairs which a stranded vessel may require shall render it necessary that the whole or any part of her cargo should be unloaded, no duties of Custom, charges or fees on such cargo as may be carried away shall be paid, except such as are payable in like case by national vessels. It is understood nevertheless, that if while the vessel is under repair, the cargo shall be unladen, and kept in a place of deposit destined for the reception of goods the duties on which have not been paid, the cargo shall be liable to the charges and fees lawfully due to the keepers of such warehouses.

ARTICLE XII

It shall be lawful for the citizens of either country to sail with their ships and merchandize; (contraband goods always excepted) from any port whatever to any port of the enemy of the other, and to sail and trade with their ships and merchandize, with perfect security and liberty, from the countries, ports and places of those who are enemies of either party, without any opposition or disturbance whatsoever, and to pass, not only directly, from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be or be not under the jurisdiction of the same power, unless such ports or places be effectively blockaded, besieged, or invested.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced, may be

turned away from such port or place, but she shall not be detained, nor any part of her cargo, (if not contraband,) be confiscated, unless after notice of such blockade, or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper, provided the same be not blockaded, besieged, or invested. Nor shall any vessel of either of the parties that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo; nor if found therein, after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation; but they shall be restored to the owners thereof.

ARTICLE XIII

In order to regulate what shall be deemed contraband of war, there shall be comprised under that denomination, gunpowder, saltpetre, petards, matches, balls, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannons, mortars, their carriages and beds, and generally, all kinds of arms, ammunition of war, and instruments fit for the use of troops; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner.

ARTICLE XIV

It is hereby stipulated that free ships shall give a freedom to goods, and that every thing shall be deemed free and exempt, which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

ARTICLE XV

In time of war the merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage and the articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas, as in the ports or roads, not only their passports, but likewise their certificates, showing that their goods are not of the quality of those, which are specified to be contraband in the thirteenth article of the present convention.

ARTICLE XVI

And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that when one party shall be engaged in war, and the other party be neutral, the ships of the neutral party shall be furnished with passports, that it may appear thereby that the ships really belong to the citizens of the neutral party; they shall be valid for any number of voyages, but shall be renewed every year—that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided not only with the passports above mentioned, but also with certificates, so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates, that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and a receipt for the same shall be given, and the ship shall be at liberty to pursue its voyage, unless the quantity of the contraband goods be greater than can conveniently be received on board the ship-of-war or privateer; in which case, as in all other cases of just detention, the ship shall be carried into the nearest safe and convenient port for the delivery of the same.

If any ship shall not be furnished with such passport or certificates as are above required for the same, such case may be examined by a proper judge or tribunal, and if it shall appear from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens or subjects of the neutral party, it shall not be confiscated; but shall be released with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage.

If the master of a ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall nevertheless, be equally secure, and the passport remain in full force.

ARTICLE XVII

If the ships of the citizens of either of the parties shall be met with on the high seas by any ship of war or privateer of the other, for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship, which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport concerning the property of the ship; and it is expressly agreed, that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ARTICLE XVIII

It is expressly agreed by the high contracting parties, that the stipulations above mentioned relative to the conduct to be observed on the sea by the cruisers of the belligerent party, towards the ships of the neutral party, shall be applicable only to ships sailing without convoy, and when the said ships shall be convoyed, it being the intention of the parties to observe all the regards due to the protection of the flag displayed by public ships, it shall not be lawful to visit them; but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers as fully sufficient; the two parties reciprocally engaging not to admit under the protection of their convoys, ships which shall have on board contraband goods destined to an enemy.

ARTICLE XIX

In all cases where vessels shall be captured, or detained to be carried into port, under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a copy of the said papers; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the same. Nor shall it be lawful to sell, exchange, or alienate the said articles of contraband, in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods, sentence of confiscation.

ARTICLE XX

And in such time of war, that proper care may be taken of the vessel and cargo; and embezzlement prevented, it is agreed that it shall not be lawful to remove the master, commander, or supercargo of any captured ship, from on board thereof, during the time the ship may be at sea after her capture, or pending the proceedings against her or her cargo, or any thing relating thereto; and in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers and crew shall be hospitably treated; They shall not be imprisoned, or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo and mate, five hundred dollars each, and for the sailors and passengers, one hundred dollars each.

ARTICLE XXI

It is further agreed that in all cases, the established courts for prize causes in the country to which the prizes may be conducted, shall alone take cogni-

zance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

ARTICLE XXII

And that more abundant care may be taken for the security of the citizens of the contracting parties, and to prevent their suffering injuries, all commanders of ships of war, and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander shall be jointly and severally bound in the sum of seven thousand dollars, or of nine thousand four hundred dollars Venezuelan currency, or if said ship be provided with above one hundred and fifty seamen or soldiers, in the sum of fourteen thousand dollars, or eighteen thousand, eight hundred dollars Venezuelan currency, to satisfy all damages and injuries which the said privateer, or her officers, or men, or any of them may do or commit, during her cruize contrary to the tenor of this convention, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, said commission shall be revoked and annulled.

ARTICLE XXIII

When the ships of war of the two contracting parties, or those belonging to their citizens, which are armed in war, shall be admitted to enter with their prizes the ports of either of the two parties, the said public or private ships as well as their prizes, shall not be obliged to pay any duty, either to the officers of the place, the judges or any others; nor shall such prizes, when they come to, and enter the ports of either party, be arrested or seized, nor shall the officers of the place make examination concerning the lawfulness of such prizes, but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions which the commanders of such ships of war shall be obliged to show. It is understood, however, that the privileges conferred by this article shall not extend beyond those allowed by law, or by treaty with the most favoured nation.

ARTICLE XXIV

It shall not be lawful for any foreign privateers, who have commissions from any prince or state in enmity with either nation, to fit their ships in the ports of either, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary to their going to the next port of that prince or state, from which they have received their commissions.

ARTICLE XXV

No citizen of Venezuela shall apply for, or take any commission or letters of marque for arming any ship or ships to act as privateers against the said United States, or any of them, or against the citizens, people or inhabitants of the said United States, or any of them, or against the property of any of the inhabitants of any of them, from any prince or state with which the said United States shall be at war; nor shall any citizen or inhabitant of the said United States, or any of them, apply for or take any commission or letters of marque for arming any ship or ships to act as privateers against the citizens or inhabitants of Venezuela, or any of them, or the property of any of them, from any prince, or state with which the said Republic shall be at war; and if any person of either nation shall take such commissions or letters of marque, he shall be punished according to their respective laws.

ARTICLE XXVI

The high contracting parties grant to each other the liberty of having in the ports of the other, Consuls or Vice-Consuls of their own appointment, who shall enjoy the same privileges and powers as those of the most favoured nation; but if any of the said consuls or vice consuls shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

It is understood that whenever either of the two contracting parties shall select a citizen of the other for a consular agent, to reside in any ports or commercial places of the latter, such consul or agent shall continue to be regarded, notwithstanding his quality of a foreign consul, as a citizen of the nation to which he belongs, and consequently shall be subject to the laws and regulations to which natives are subjected, in the place of his residence. This obligation, however, shall in no respect embarrass the exercise of his consular functions, or affect the inviolability of the consular archives.

The said consuls and vice-consuls shall have the right, as such, to sit as judges and arbitrators, in such differences as may arise between the masters and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless their assistance should be required, or the conduct of the crews or of the captain should disturb the order or tranquility of the country. It is however

understood, that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort on their return, to the judicial authority of their own country.

The said consuls and vice-consuls are authorized to require the assistance of the local authorities, for the arrest and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose, they shall apply to the competent tribunals, judges and officers, and shall, in writing demand such deserters, proving by the exhibition of the registers of the vessels, the muster rolls of the crews, or by any other official documents, that such individuals formed part of the crews; and on this claim being substantiated, the surrender shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the consuls and vice-consuls, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belong, or to others of the same country.

But if not sent back within three months of the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause. However, if the deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal, before which his case shall be pending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE XXVII

The United States of America and the Republic of Venezuela, on requisitions made in their name through the medium of their respective diplomatic and consular agents, shall deliver up to justice persons, who being charged with the crimes enumerated in the following article, committed within the jurisdiction of the requiring party, shall seek asylum or shall be found within the territories of the other; Provided, that this shall be done only when the fact of the commission of the crime shall be so established, as to justify their apprehension and commitment for trial, if the crime had been committed in the country where the persons so accused shall be found; in all of which, the tribunals of said country shall proceed and decide according to their own laws.

ARTICLE XXVIII

Persons shall be delivered up according to the provisions of this convention, who shall be charged with any of the following crimes, to wit: Murder (including assassination, parricide, infanticide, and poisoning,); attempt to commit murder; rape; forgery; the counterfeiting of money; arson; robbery with violence, intimidation, or forcible entry of an inhabited house; piracy; embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

ARTICLE XXIX

On the part of each country, the surrender shall be made only by the authority of the Executive thereof. The expenses of detention and delivery effected in virtue of the preceding articles, shall be at the cost of the party making the demand.

ARTICLE XXX

The provisions of the foregoing articles relating to the surrender of fugitive criminals, shall not apply to offences committed before the date hereof, nor to those of a political character.

ARTICLE XXXI

This convention is concluded for the term of eight years, dating from the exchange of the ratifications; and if one year before the expiration of that period, neither of the contracting parties shall have announced, by an official notification, its intention, to the other, to arrest the operations of said convention, it shall continue binding for twelve months longer, and so on, from year to year, until the expiration of the twelve months which will follow a similar declaration, whatever the time, at which it may take place.

ARTICLE XXXII

This convention shall be submitted on both sides, to the approval and ratification of the respective competent authorities of each of the contracting parties, and the ratifications shall be exchanged at Caracas, as soon as circumstances shall admit.

In faith whereof, the respective Plenipotentiaries have signed the foregoing articles in the English and Spanish languages, and they have hereunto affixed their seals.

Done in duplicate at the city of Caracas, this twenty seventh day of August in the year of our Lord, one thousand eight hundred and Sixty.

E. A. TURPIN	[SEAL]
PEDRO DE LAS CASAS	[SEAL]